APPELLEE'S

BRIEF

(17)

No. 83-2030

In the

Supreme Court of the United States

OCTOBER TERM, 1984

THE BOARD OF EDUCATION OF THE CITY OF OKLAHOMA CITY, STATE OF OKLAHOMA,
Appellant

v.

THE NATIONAL GAY TASK FORCE,
Appellee

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

POST-ARGUMENT BRIEF OF APPELLEE

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In the course of Appellant's oral argument to this Court, Mr. Arrow was asked (1) whether a teacher could be dismissed under the challenged statute, 70 Okla. Stat. § 6-103.15, only upon a showing that the teacher was "unfit" within the meaning of the unchallenged, general dismissal provision, § 6-103; and (2) whether a showing of "adverse effect" upon students or

school employees was a prerequisite to dismissing a teacher for "unfitness" under § 6-103.15. Counsel for Appellant answered both of these questions in the affirmative, relying upon a case not cited to the Court in Appellant's Brief. *Childers* v. *Independent School District No. 1*, 645 P.2d 992 (S.Ct.Okl. 1982). In fact, nothing in Oklahoma law remotely supports either affirmative answer.

While correctly informing the Court that the *Childers* case did not even address § 6-103.15 in any way, Counsel for Appellee may have inadvertently characterized *Childers* as a case involving Oklahoma's criminal sodomy statute. As the Court will itself discover, *Childers* in fact involved the interpretation of the terms "willful neglect of duty" and "incompetency," 645 P.2d at 995-97, as they are used in the unchallenged provision, § 6-103.* Counsel for Appellee files this brief in order to dispel any misunderstanding to which he may have contributed.

Respectfully submitted,

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*The Oklahoma Supreme Court indeed held in *Childers*, flatly contrary to Appellant's intimation, that a teacher could indeed be dismissed under § 6-103 even if his neglect of duty was neither "with evil intent" nor "with purpose to do harm." 645 P.2d at 996.